IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

Writ Petition No l24l of l99l

Grasim Industries Limited.. petitioners
vs
Union of India and ors.. respondents

Mr.E.P.Bharucha i/b Mulla and Mulla for petitioners
Mr. A.S.Raof or respondents

CORAM: A.P.SHAH & S.J.VAZIFDAR JJ.
Dated 28.l.2005

P.C:

l. This petition was filed challenging the demand notice dated 3.4.l99l as contained in Exhibit N to the petition requiring the petitioner company to deposit l6.5% extra duty on the import goods and to allow the petitioner company to clear the goods covered by Bill of Entry for Home Consumption and the other goods covered by Contracts registered by the petitioner under the Project Regulations without requiring the petitioner to deposit 27.8% or any other amount as extra duty.

2. By order dated l2.4.l99l the above petition was admitted and on the undertaking given on behalf of the petitioner to the court to furnish guarantee of nationalised bank in favour of the respondent no. 2 for half of the differential duty interim relief was granted in terms of prayer clause (d). It was

further directed that the final assessment shall not be held up on account of the said order but shall be completed as expeditiously as possible. Admittedly the respondents have not completed the assessment. The respondent have issued a show cause notice dated 29.l.2004 to the petitioner company to explain why the value of the goods imported under their contract registered under the Project Regulations should not be rejected under rule l0(a) of the Customs Valuation Rules, l988 read with section l4 of the Customs Act, l962 and various amounts payable towards royalty, basic engineering and supervision charges should not be included in the assessable value of the goods under rule (l)(b),(c) and (e) of the Customs Valuation Rules, l988 read with section l4 of the Customs Act, l962. Consequent upon the issuance of the show cause notice petitioner has amended the petition and challenged the legality and propriety of the said show cause notice.

3. Mr. Bharucha, learned counsel appearing for the petitioners submitted that some aspects of the show cause notice are covered by the decision of the tribunal in Collector of Customs, Bombay vs Maruti Udyog Ltd reported in l987 (28) ELT 390 and confirmed by the Supreme Court in Collector of

Customs,Bombay vs. Maruti Udyog Ltd reported in l989 (22) ECR 482. The learned counsel also relied upon the decision of the Supreme Court in Collector of Customs vs. Essar Gujarat reported in (l997) 9 SCC 738.

4. On the other hand the learned counsel appearing for the respondents vehemently submitted that the decisions relied upon by Mr. Bharucha have no application to the facts of the case.

5. Having considered the rival submissions of the parties we are of the view that it would not be appropriate to interfere with the impugned notice at this stage as it is open for the petitioner company to raise all the contentions before the Dy Commissioner of Customs (Import) who has issued the notice. The Dy Commissioner shall grant opportunity of hearing to the petitioner and pass appropriate orders in accordance with law . The interim order passed by this court vide order dated l2.4.l99l shall continue till the show cause notice is adjudicated and for a further period of 6 weeks from the date of communication of the order to the petitioner. Petition stands disposed of accordingly.

All the contentions on merits are left open to the parties.